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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,910	10/29/2003	Brian H. Silver	5297/187	9259

7590 12/06/2006

MICHAEL H. BANIAK  
BANIAK PINE & GANNON  
Suite 1200  
150 N. Wacker Drive  
Chicago, IL 60606

EXAMINER

WEAVER, SUE A

ART UNIT PAPER NUMBER

3781

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	Applicant(s)	
10/696,910	SILVER, BRIAN H.	
Examiner	Art Unit	
Sue A. Weaver	3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) 8, 17, 18, 36, 37, 58, 59 and 61-69 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-16, 19-35, 38, 39, 42-57, 60 and 70-72 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. Applicant's election without traverse of Group I1/30/06 and the specie of nipple 410 in the reply filed on 1/30/06 and 6/22/06 is acknowledged.

Claims 8, 17, 18, 36, 37, 58, 59 and 61-69 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1/30/06 and 6/22/06.

Applicant is cautioned that the status of claims 8, 36, 37, 58 and 59 is incorrectly listed in the amendment received 10/16/06. Such incorrect status will render the response noncompliant in the future.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 4-6, 10, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over White '069 of record in view of Correnti '157.

White teaches a nipple with a substantially solid tip having separate ducts for conveying fluids as shown at 67 in Figure 11. Note that the nipple also has a mounting portion as shown at 66 which is considered to include a land and lip as claimed.

Applicant has taken issue with the fact that the central chamber does not have an outlet and therefore is not a duct. However to have made such central chamber with its own outlet as well would have been obvious in view of such teaching by Correnti at 11. The tip of the nipple of White in the alternate embodiment would be considered solid when modified, in as much as applicant's is.

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3. Claims 3,14,16, 19-24, 32-35, 38, 39, 42-44, 47, 54-57 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claim 1, 13 and 15 above, and further in view of Ishimaru et al JP '076, of record.

To have formed the nipple of a soft material to provide more natural nursing would have been obvious in view of Ishimaru et al.

4. Claims 9, 30, 31, 45, 47, 48 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 6 and 44 above, and further in view of Morano '608, of record.

To have formed the attachment porting as a co-molded portion of material which is more rigid and provided with indicia would have been obvious in view of such teaching by Morano.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Dunn et al '766, of record.

To have formed the nipple and attachment portion as two parts and provided indicia by color coding would have been obvious in view of such teaching by Dunn et al.

6. Claims 11, 12, 70 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 3,10 and 54 and above, and further in view of Parkin '236, of record.

To have added a venting structure to the attachment portion would have been obvious in view of such teaching by Parkin.

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7. Claims 25-29 and 49-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 7, 19, 43 and 45 above, and further in view of Fort '733, of record.

To have formed the mounting portion with a thread and ring would have been obvious in view of such teaching by Fort.

8. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 39 and 45 above, and further in view of Yamamoto et al JP '498, of record.

To have formed the mounting portion with a different hardness or Shore A of 40-60 for a better seal would have been obvious in view of such teaching by Yamamoto et al.

9. Claim 72 is rejected under 35 U.S.C. 102(b) as being anticipated by Morifuji et al '991, of record.

Note the valve at 12 in the duct 11a.

10. The drawings were received on 10/16/06. These drawings are accepted as proposed changes. However since the references numerals are rough formal drawings will be required upon the indication of allowability.

11. Applicant's arguments with respect to claims 1, 2, 4-6, 10, 13 and 15 and the related claims have been considered but are moot in view of the new ground(s) of rejection.

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12. Applicant's arguments filed 10/16/06 have been fully considered but they are not persuasive. Morifuji does indeed have a duct which is that portion through which fluid flows. Applicant has not claimed any solid portion. Therefore the whole nipple forms a duct when the fluid flows through it.
13. Claims 40 and 41 have been canceled.
14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents show other nipple constructions.
15. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

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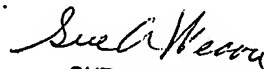
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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (571) 272-4548. The examiner can normally be reached on Tuesday-Friday from 5:30 to 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor is Anthony Stashick. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**SUE A. WEAVER**  
**PRIMARY EXAMINER**  
**GROUP 3200**